



भारत का राजपत्र

The Gazette of India

प्रसाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

No. 136]

नई विल्सनी, इनिंबार, प्रैरेल 20, 1968/चैत्र 31, 1890

No. 136]

NEW DELHI, SATURDAY, APRIL 20, 1968/CHAITRA 31, 1890

इस भाग में भिन्न पृष्ठ तंत्रिया ही जाती है जिससे कि यह प्रलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION

(Department of Labour and Employment)

NOTIFICATION

New Delhi, the 19th April 1968

S.O. 1435.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following further amendments in the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, the same having been previously published as required by the said sub-section, namely:—

1. This Scheme may be called the Madras Unregistered Dock Workers (Regulation of Employment) Second Amendment Scheme, 1968.

2. In clause 3 of the Madras Unregistered Dock Workers (Regulation of Employment) Scheme, 1957, (hereinafter referred to as the said Scheme)—

(i) after sub-clause (a), the following sub-clause shall be inserted, namely:—

“(aa) “Administrative Body” means, the Administrative Body appointed under clause 6A.”

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(gg) “Labour Officer” means, the Labour Officer appointed under clause 6C.”

3. In clause 4 of the said Scheme, after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) determining wages in relation to the actual output of work pertaining to the categories of listed workers in different stages and also their allowances and other conditions of service.”

4. In clause 5 of the said Scheme, after sub-clause (1) (a) the following shall be inserted, namely:—

“(aa) to ensure that proper and adequate supervision as laid down by the Board over the workers employed on the ships and on shore is provided by the listed employers and that the provisions of the Scheme in regard to the work on vessels and on shore are duly complied with.”

5. After clause 6 of the said Scheme, the following clauses shall be inserted, namely:—

6-A. *Administrative Body.*—The Central Government may, by notification in the Official Gazette, appoint a body consisting of such employers of dock workers as the Central Government may nominate in this behalf to be the Administrative Body for the purpose of carrying on the day-to-day administration of this Scheme

6-B. *Functions of the Administrative Body.*—The Administrative Body shall be responsible for the administration of this Scheme, under the control and supervision of the Chairman and the Board and shall, in particular, be responsible for—

(a) the allocation of the listed workers in the pools constituted under clause 9-A who are available for work to the listed employers and for this purpose, the Administrative Body shall—

(i) collect a suitable levy and/or administrative charges for defraying the cost of this Scheme;

(ii) collect contribution to the Provident Fund, Insurance Fund, Welfare Fund or any other fund which may be constituted under this Scheme;

(iii) be deemed to act as an agent for the listed employer;

(iv) make the fullest possible use of the listed workers in each pool; and

(v) provide for the maintenance of records of employment and earnings.

(b) the payment, as agent of the listed employer, to each listed dock worker of all earnings due to the worker from the employer;

(c) authorising the employment of unlisted workers if listed workers are not available for work in the pool(s) or in such circumstances as the Chairman may approve;

(d) appointing such Officers and servants as may from time to time, be necessary with the approval of the Chairman;

(e) keeping of proper accounts of the cost of operating this Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet; and

(f) such other functions as may be entrusted to it by the Board or the Chairman.

6-C. *Labour Officer.*—The Administrative Body shall appoint a Labour Officer with the approval of the Board. The Labour Officer shall under the supervision and control of the Administrative Body carry out such functions as may be assigned to him by the Administrative Body consistent with the provisions of the Scheme.

6. In clause 7 of the said Scheme, after the words “from time to time as it may deem fit”, the following shall be inserted, namely:—

“Persons who are not members of the Board may, if necessary, be nominated as co-opted members of a Committee. Such co-opted members shall not have any right to vote.”

7. In clause 9 of the said Scheme, after sub-clause (2), the following sub-clauses shall be inserted, namely:—

(2A) Such of those workers who have been listed by the Board or whose names have been approved by the Board for listing, prior to the appointment of the Administrative Body under the provisions of this Scheme, shall be enrolled by the Administrative Body.

(2B) The services of a listed worker enrolled under sub-clause (2A) shall be counted from the date on which the worker had actually been

listed by the Board under this Scheme or 1st January, 1961, whichever is later, and the previous service of such worker shall be reckoned for all benefits that may have been accrued to him in respect of such service. The employer shall, in particular, transfer to the Administrative Body such amount, if any, as may be outstanding towards the worker's provident fund on the date of such enrolment."

8. After clause 9 of the Scheme, the following clauses shall be inserted, namely:—

"9A. *Classification of workers in the list.*—(1) The Board shall arrange for the classification of workers by categories in different pools prescribed under sub-clause (2).

(2) for the purpose of allocation of work, the Administrative Body shall constitute three separate pools of workers, namely:—

- (i) chipping and painting workers;
- (ii) workers engaged on shore in the handling of coal, ore or chemical manure (including rock phosphate), iron and steel billets, scrap iron, sulphur in bulk and timber;
- (iii) coal stevedoring on board the ships.

Normally workers from each pool shall be allotted work in rotation for the particular category of work relating to that pool. When the work in that category or pool is not available, workers in one pool shall be allotted work in rotation to any other pool. In case of refusal to work in a pool other than their own, the workers shall not be entitled to the minimum guarantee and attendance allowance as provided under clauses 13B and 13C respectively.

9B. *Service records for listed workers.*—A service record for every listed worker shall be maintained by the Administrative Body in such form as may be prescribed by the Board which shall contain, among other things, a complete record of disciplinary action taken against the worker, promotions, commendation for good work and other matters."

9. In clause 10 of the said Scheme, (i) for the words, "a listed employer", the words, "the Administrative Body" shall be substituted;

(ii) for the word "the listed employer", the words "the Administrative Body" shall be substituted.

10. After clause 10 of the said Scheme, the following clauses shall be substituted, namely:—

"10-A. *Facilities for training.*—The Administrative Body may make such provision as it may consider necessary, for training of suitable listed workers.

10-B. *Holidays.*—Each listed worker shall be entitled in a year to 8 holidays with pay at such rates as may be prescribed by the Board including all such days which shall not exceed 6 in a year as are declared by the Board as closed holidays. Any payment made under this clause shall be exclusive of the payment calculated under clause 13-B.

10-C. *Standing Orders.*—Within one month from the date of appointment of the Administrative Body, it shall frame Standing Orders to define with sufficient precision the conditions of employment of the listed labour employed under it. The Standing Orders so framed, shall as far as possible be similar to the Standing Orders, applicable to the Reserve Pool workers of the Madras Dock Labour Board with modifications, additions and alterations wherever necessary to suit the employment conditions of listed labour. The Standing Orders, so framed, shall provide for casual leave, medical leave and earned leave.

10-D. *Approval of the Board.*—Before certification of the Standing Orders by the Certifying Officer as provided under section 5 of the Industrial Employment (Standing Orders) Act, 1946, a copy of the Standing Orders framed under clause 10-C shall be sent by the Administrative Body to the Deputy Chairman who shall place it before the Board for its approval.

10-E. *Provident Fund and Gratuity.*—Listed workers shall be eligible for contributory Provident Fund and Gratuity with effect from the date of their enrolment with the Administrative Body under clause 9(2A).

Rules for such Provident Fund and Gratuity shall be framed by the Administrative Body and placed before the Madras Dock Labour Board for its ratification, within 3 months from the date of appointment of the Administrative Body under the provisions of this Scheme.

11. For clause 11 of the said Scheme, the following clauses shall be substituted, namely:—

"11. *Obligations of listed employers.*—(1) Every listed employer shall be bound by the provisions of this Scheme.

(2) Every listed employer shall pay to the Board such administrative charges as may be fixed by the Board from time to time.

(3) Subject to the provisions of clause 9A, a listed employer shall not employ a worker other than a dock worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 6B.

(4) A listed employer shall in accordance with the arrangements made by the Administrative Body submit all available information of his current and future labour requirements.

(5) A listed employer shall pay to the Administrative Body in such manner and at such times as the Chairman may direct the administrative charges payable under sub-clause (2) and gross wages due to the dock workers.

(6) A listed employer shall keep such records as the Board may require, and shall produce to the Board or to such persons as may be designated by the Chairman upon reasonable notice all such records and any other documents of any kind relating to listed dock workers and to the work upon which they have been employed and furnish such information relating thereto as may be set out in any notice or direction issued by or on behalf of the Board.

(7) A listed employer shall not pay a listed worker anything in cash or in excess of the wages normally and actually due to the worker.

11A. *Suspension of supply of listed workers.*—If a listed employer fails to make the payment due from him under sub-clause (2) or sub-clause (5) of clause 11 or any other amount due and payable to the Board in any other capacity or account within such time as may be prescribed by the Administrative Body, the Administrative Body shall serve a notice on the employer to the effect that, unless he pays his dues within three days from the date of receipt of the notice, the supply of listed workers to him shall be suspended. On the expiry of the notice period, the Administrative Body shall suspend the supply of listed workers to the defaulting employer until he pays his dues."

12. In clause 12 of the said Scheme, for sub-clauses (3) and (4), the following sub-clauses shall be substituted, namely:—

"(3) A listed worker who is available for work shall not engage himself for employment under a listed employer unless he is allocated to that employer by the Administrative Body.

(4) A listed dock worker in the pool who is available for work shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points on such days and at such times as may be specified by the Administrative Body;

(b) accept any employment in connection with dock work whether in the category or pool in which he has been listed or in any other category or pool for which he is considered suitable by the Administrative Body.

(5) A listed dock worker who is available for work when allocated by the Administrative Body for employment under a listed employer shall carry out his duties in accordance with the directions of such listed employer or his authorised representative or supervisor and the rules of the port or place where he is working."

13. After clause 13 of the said Scheme, the following clauses shall be inserted, namely:—

"13-A. *Chairman to evolve Schemes.*—(1) The Chairman may evolve a Scheme or Schemes of payment to the listed workers in relation to the

actual output of their work. The Scheme or Schemes shall be considered by the Board in a meeting and, if adopted, shall be submitted to the Central Government for approval. Such a Scheme or Schemes shall come into force from a date which may be approved by the Central Government. Different dates may be fixed in respect of such Schemes governing different categories of listed workers.

(2) if any Scheme or Schemes evolved by the Chairman is not approved by the Board in a meeting, the Chairman shall report the matter to the Central Government forwarding, at the same time, a copy of the Scheme or Schemes for the decision of the Government. The Central Government shall consider the Scheme or Schemes and the views of the members of the Board and take such decision as may be appropriate. The decision of the Central Government shall be binding on the Board.

(3) Pending formulation of the Scheme as provided in sub-clause (1), any change or modification in the rate of wages or other emoluments of the listed workers shall be approved by the Board before such changes or modifications in the wage rates or emoluments of listed labour are given effect to.

13-B. *Guaranteed minimum wages in a month.*—(1) A listed worker shall be paid wages at least for 12 days in a month at the wage rate, inclusive of dearness allowance, as prescribed by the Board appropriate to the category of pool to which he belongs or to any other category or pool to which he may be allotted, even though no work is found for him for the minimum number of 12 days in a month. The days on which work is allotted to the worker shall be counted towards the twelve days mentioned above. The guaranteed minimum wages in a month shall be—

- (a) for the number of days for which wages are guaranteed in a month subject to the condition that the worker attended for work on all days of the month as directed by the Administrative Body; or
- (b) proportionate to the number of days on which the worker attended for work provided he was excused from attendance on all the remaining days of the month.

(2) Subject to the provisions of sub-clause (1), the minimum number of days in a month for which wages are guaranteed in respect of workers in each pool may be fixed by the Board for each year on the basis of the monthly average employment obtained by the workers in the lowest category of each pool of listed workers separately during the preceding year until the minimum number of days reaches 21:

Provided that the number fixed shall not, in any case, be less than the number in the preceding year.

NOTE.—The method of assessing the average employment is detailed in Schedule II to the Madras Dock Workers (Regulation of Employment) Scheme, 1956.

(3) The minimum number of days for which wages shall be guaranteed under sub-clauses (1) and (2) above shall not automatically apply to workers in new categories that may be listed after the date of enforcement of the Scheme. The minimum number of days for which wages shall be guaranteed to these categories shall be determined under clause 18(3)(e) of the Madras Dock Workers (Regulation of Employment) Scheme, 1956. The annual refixation of the minimum number of days as under sub-clause (2) shall be done independently in their case also.

Explanation I.—In sub-clauses (1), (2) and (3) of this clause a 'day' shall mean a 'shift'.

Explanation II.—For the purpose of this clause, the expression 'month' shall not include the days of weekly off provided that there is no payment for the day of the weekly off.

13-C. *Attendance allowance.*—Subject to the other provisions of this Scheme, a worker in the pools who is available for work but for whom no work is found shall be paid attendance allowance at the rate of Rs. 1.50 per day for all the days during a calendar month he attended for work as directed by the Administrative Body, provided that the Board may allow payment of attendance allowance at such higher rate not exceeding rupees two as it may deem necessary.

13-D *Disappointment money.*—When a worker in the pools presents himself for work and for any reason the work for which he has attended cannot commence or proceed and no alternative work can be found for him and he is relieved within two hours of his attending for work, he shall be entitled to the disappointment money, equal to half the time-rate wage inclusive of dearness allowance appropriate to the category to which he belongs. A worker detained for more than two hours shall be paid full time-rate wages inclusive of dearness allowance."

14. In clause 14 of the said Scheme, for sub-clauses (3) and (4) the following sub-clauses shall be substituted, namely:—

- "(3) (i) A listed dock worker in any of the pools or categories constituted under clause 9-A who fails to comply with any of the provisions of this Scheme, or commits any act of indiscipline or misconduct, may be reported against in writing to the Labour Officer.
- (ii) The Labour Officer after investigating the matter may give him a warning in writing or suspend him for a period not exceeding seven days.
- (4) Where, in a case reported to him under sub-clause (3), the Labour Officer is of opinion that the act of indiscipline or misconduct is so serious that the worker should not be allowed to work any longer, the Labour Officer may, pending investigation of the matter, suspend the worker for a period not exceeding seven days and report immediately to the Deputy Chairman, who after preliminary investigation of the matter shall pass orders thereon whether the worker should, pending final orders, remain suspended or not provided that the total period of such suspension shall not exceed a period of three months.
- (5) Where the Deputy Chairman comes to the decision that the order of suspension of the worker pending investigation into the charge of indiscipline or misconduct, as the case may be, ought not have been made, the worker shall be entitled to such payments from the Administrative Body as may be decided by the Deputy Chairman.
- (6) Where in the opinion of the Labour Officer higher punishment than that provided in sub-clause (4) is merited, he shall report the case to the Deputy Chairman.
- (7) On receipt of the written report from the Labour Officer under sub-clause (6) or from the Administrative Body that a listed dock worker in the pool has failed to comply with any of the provisions of this Scheme or has committed an act of indiscipline or misconduct or has consistently failed to produce the standard out-put or has violated the provisions of the Scheme more than once or has been inefficient in any other manner, the Deputy Chairman may make or cause to be made such further investigation as he may deem fit and thereafter take any of the following steps as regards the worker concerned, that is to say, he may impose any of the following penalties:—
 - (a) give him a warning in writing;
 - (b) suspend him for a period not exceeding 3 months;
 - (c) terminate his services after giving 14 days' notice; or
 - (d) dismiss him.
- (8) Before any action is taken under this clause, the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him. A copy of the final order shall also be communicated to the persons concerned.
- (9) The Administrative Body shall be informed simultaneously about the action taken under this clause."

15. In clause 15 of the said Scheme, in sub-clause (3), the proviso shall be omitted.

16. In clause 16 of the said Scheme,—

(i) for sub-clause (1), the following sub-clause shall be substituted, namely:—

“(1) A listed worker in the pool who is aggrieved by an order passed by the Labour Officer or the Deputy Chairman under clause 14 may appeal to the next higher authority, namely, the Deputy Chairman or the Chairman, as the case may be.”

(ii) in sub-clause (3), the proviso shall be omitted.

[No. 62/1/68-Fac-II.]

N. N. CHATTERJEE, Jt. Secy.

